



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 5

77 WEST JACKSON BOULEVARD

CHICAGO, IL 60604-3590

AUG 07 2018

REPLY TO THE ATTENTION OF:

LC-17J

CERTIFIED MAIL 7014 2870 0001 9580 6804  
RETURN RECEIPT REQUESTED

Mr. Carl R. Schneider, Owner  
MLS Holdings LLC



Re: Request for Information Regarding Compliance with Disclosure Rule

Dear Mr. Schneider:

The U.S. Environmental Protection Agency, Region 5 (EPA) requests that you provide information regarding your compliance with the Real Estate Notification and Disclosure Rule set forth in Section 1018 of the Residential Lead-Based Paint Hazard Reduction Act of 1992, 42 U.S.C. § 4852d (Disclosure Rule). See 40 C.F.R. Part 745, Subpart F. Based on the information available to EPA, you were involved in a real estate transaction of residential housing constructed prior to 1978 and, thus, was required to comply with the Disclosure Rule. EPA is contacting you in response to a complaint alleging that you did not comply with the Disclosure Rule.

The Disclosure Rule imposes requirements on sellers and lessors of residential housing constructed prior to 1978, including but not limited to, the obligations to provide the purchaser or lessee with an EPA-approved lead hazard information pamphlet and to disclose the presence of known lead-based paint and/or lead-based paint hazards in the housing sold or leased. Under 40 C.F.R. § 745.113, contracts for the sale or lease of residential housing constructed prior to 1978 must include an attachment containing specific lead-related information, and sellers, lessors or their agents are required to keep copies of these attachments (or the lease contract including this information) for no less than three years from the completion of the sale or commencement of the leasing period.

Within 30 days of your receipt of this letter, EPA requests that you provide the information identified in Enclosure A, and complete and return the declaration in Enclosure B. If EPA has not received your response or you have not contacted EPA within 30 days of receipt of this request for information, EPA will presume that you choose not to respond to this request.

Should you decide not to provide the requested information, EPA may consider other options, including issuing a subpoena under Section 11(c) of the Toxic Substances Control Act (TSCA), 15 U.S.C. § 2610(c), seeking the same or similar information.

Pursuant to the regulations at 40 C.F.R. Part 2, Subpart B, you are entitled to assert a business confidentiality claim covering any part of the submitted information. Unless such a confidentiality claim is asserted at the time the required information is submitted, EPA may make this information available to the public without further notice to you. Information subject to a business confidentiality claim may be made available to the public only to the extent set forth in 40 C.F.R. Part 2, Subpart B. Any such claim for confidentiality must conform to the requirements set forth in 40 C.F.R. § 2.203(b). For more information regarding the requirements for making a claim of confidentiality, see Enclosure C to this request.

EPA may determine, under the criteria provided by 40 C.F.R. § 2.208, that certain information may not be entitled to business confidential treatment. However, EPA may decide that disclosure of this information may constitute an invasion of privacy and, on that basis, withhold it from disclosure to the general public. Such personal privacy information may include social security numbers, current addresses, or other personal information related to an individual. It is not necessary for a business confidentiality claim to be made for EPA to withhold personal privacy information.

EPA may use the information you provide in response to this request in an administrative, civil or criminal action. This request for information is not subject to the requirements of the Paperwork Reduction Act, 44 U.S.C. § 3501, *et seq.*, because it seeks to collect information from a specific individual or entity as part of an administrative action or investigation.

If you are not asserting a claim of business confidentiality, mail the requested information to:

Pamela Grace (LC-17J)  
Pesticides and Toxics Compliance Section  
U.S. EPA, Region 5  
77 West Jackson Blvd.  
Chicago, Illinois 60604

Ms. Grace can be contacted by telephone at (312) 353-2833.

If you are asserting a claim of business confidentiality, your response must be double wrapped with the interior envelope clearly marked "Confidential, Contains TSCA CBI" and the exterior envelope addressed and mailed to Ms. Claudia Niess, Document Control Officer, at the following address:

Claudia Niess, DCO (LC-17J)  
Pesticides and Toxics Compliance Section  
U.S. EPA, Region 5  
77 West Jackson Blvd.  
Chicago, Illinois 60604

EPA has also enclosed with this Request for Information an information sheet entitled "U.S. EPA Small Business Resources", which you may find helpful if you are a small business.

Should you have any questions, please contact Ms. Grace at (312) 353-2833 or by email at [grace.pamela@epa.gov](mailto:grace.pamela@epa.gov). Thank you for your cooperation in this matter.

Sincerely,

A handwritten signature in cursive script, appearing to read "David C. Star".

David C. Star  
Chief  
Pesticides and Toxics Compliance Section

Enclosures



## INFORMATION AND DOCUMENTS REQUESTED

### I. INSTRUCTIONS

1. This Request for Information covers all agreements and transactions for the lease and/or sale of residential housing constructed prior to 1978 in which you had any ownership, financial or managerial interest and that took place from **July 1, 2017**, to the present. This timeframe applies to the contracts for the lease and/or sale of properties only, and does not apply to any other documents and information requested herein.

This Request for Information covers all documents described below that are in your possession and/or under your control, and in the possession and/or under the control of any Agent(s) (Listing, Seller, Buyer, Rental or Property Manager) and Broker(s) involved in the lease or sale transaction(s) described above.

2. If you choose to provide documents in an electronic format, all responsive documents must be provided in Portable Document Format (PDF) or similar format.

### II. DEFINITIONS

All terms used in this Request for Information have their ordinary meaning unless such terms are defined in TSCA, 15 U.S.C. § 2601 *et seq.*, the Disclosure Rule at 42 U.S.C. § 4852d, or 40 C.F.R. Part 745. Subpart F.

1. "Agent" means any party who enters into a contract with a seller or lessor, including any party who enters into a contract with a representative of the seller or lessor, for the purpose of selling or leasing housing constructed prior to 1978. This term does apply to the purchaser or any purchaser's agent who receives all compensation from the purchaser.
2. "Document" means any object that records, stores, or presents information, and includes writings, email, memoranda, records, or information of any kind, formal or informal, whether wholly or partially handwritten or typed, whether in computer format, memory, or storage device, or in hardcopy, including any form or format of these. If in computer format or memory, each such document shall be provided in translation to a form useable and readable by EPA, with all necessary documentation and support. All documents in hard copy should also include attachments to or enclosures with any documents.
3. "Inspection" means a surface-by-surface investigation to determine the presence of lead-based paint and the provision of a report explaining the results of the investigation.
4. "Lead-based paint" means paint or other surface coatings which contain lead equal to or in excess of 1.0 milligrams per square centimeter or 0.5 percent by weight.

5. "Lead-based paint hazards" means any condition which causes exposure to lead from lead-contaminated dust, lead-contaminated soil, or lead contaminated paint which is deteriorating or present in accessible surfaces, friction surfaces, or impact surfaces that would result in adverse human health effects as established by the appropriate Federal, state or local agency.
6. "Lessee" means any entity that enters into an agreement to lease, rent, or sublease an apartment, including but not limited to individuals, partnerships, corporations, trusts, government agencies, housing agencies, Indian Tribes, and nonprofit organizations.
7. "Lessor" means any entity that offers apartments for lease, rent, or sublease, including but not limited to individuals, partnerships, corporations, trusts, government agencies, housing agencies, Indian Tribes, and nonprofit organizations.
8. "Purchaser" means an entity that enters into an agreement to purchase an interest in target housing, including but not limited to individuals, partnerships, corporations, trusts, government agencies, housing agencies, Indian tribes, and nonprofit organizations.
9. "Risk assessment" means an on-site investigation to determine and report the existence, nature, severity, and location of lead-based paint hazards in residential dwellings, including: information gathering regarding the age and history of the housing and occupancy by children under age 6; visual inspection; limited wipe sampling or other environmental sampling techniques; other activity as may be appropriate; and provision of a report explaining the results of the investigation.
10. "Seller" means any entity that transfers legal title to target housing, in whole or in part, in return for consideration, including but not limited to individuals, partnerships, corporations, trusts, government agencies, housing agencies, Indian tribes, and nonprofit organizations. The term "Seller" also includes an entity that transfers its interest a cooperatively owned project, in return for consideration; and an entity that transfers its interest in a leasehold, in jurisdictions or circumstances where it is legally permissible to separate the fee title from the title to the improvement, in return for consideration.
11. "Target Housing" means any housing constructed prior to 1978, except housing for the elderly or persons with disabilities (unless any child who is less than six years of age resides or is expected to reside in such housing) or any zero-bedroom dwelling.

### III. INFORMATION AND DOCUMENTS TO BE PROVIDED TO EPA

1. Provide copies of documents that identify all buildings owned and/or managed by you or your Agent(s) from July 1, 2017, to the present. If no such documents exist, state the Address of each property.



2. For each property you identified in request #1, above, provide copies of any document(s) that contain the date of construction. If no such documents exist, provide the date of construction for the property.
3. For each property you identified in request #1, above, provide copies of any document(s) that identify the Seller(s), Buyer(s), and Agent(s). If no such documents exist, identify the Seller(s), Buyer(s), and Agent(s) for the property.
4. For each property you identified in request #1, above, provide copies of any document(s) that identify whether this property is a single-family home or a multi-unit building. If no such documents exist, identify the type of dwelling for the property.
5. For each property you identified in request #1, above, provide copies of any document(s), as well as records and reports pertaining to the presence of lead-based paint and/or lead-based paint hazards relating to the sale of the property. If no such documents exist, identify for the property.
6. For each property you identified in request #1, above, provide copies of any document(s) confirming that the property or any of its occupants are receiving rental assistance (e.g., from the U.S. Department of Housing and Urban Development (HUD) or local public housing authority). If no such document exists, identify the recipient of the rental assistance and the entity granting such assistance.
7. For each property you identified in request #1, above, provide copies of any and all documents (contracts, leases, lease attachments, and lease applications, as well as records and reports pertaining to the presence of lead-based paint and/or lead-based paint hazards) relating to the lease and/or sale of the property. If no such documents exist, identify for each property:
  - A. The name of the Purchaser(s);
  - B. The unit number, if applicable;
  - C. The date upon which you entered into a written or verbal agreement with the Purchaser(s);
  - D. The conditions of each written or verbal agreement (e.g., when the agreements began and ended, whether the agreements covered a specific period of time, whether the agreements were renewed on a reoccurring basis, such as month-to-month); and
  - E. The age of each child living at the property.

8. For each property you identified in request #1, above, provide copies of any and all documents containing analytical results of samples for lead-based paint and/or lead-based paint hazards collected at the property, as well as any and all inspection records, risk assessments, reports, memoranda, and other documents regarding these samples, and identify the locations where these samples were collected.
9. For each property you identified in request #1, above, provide copies of any and all documents showing the earliest date that you were aware of the presence of lead-based paint and/or lead-based paint hazards at the property. If no such document exists, state the earliest date when you became aware of the presence of lead-based paint and/or lead-based paint hazards at the property.
10. For each property you identified in request #1, above, provide copies of any and all orders, notices (e.g., mitigation notice), or agreements to abate lead-based paint and/or lead-based paint hazards issued to you by any local, state, or federal government unit, department, or agency. If no such document exists, state the date on which you received the notice, describe the type of notice received, and identify the originating entity.
11. For each property you identified in request #1, above, provide copies of all lead-based paint and/or lead-based paint hazard certification and acknowledgment disclosure documents. If no such document exists, provide an explanation for why these documents do not exist.
12. For each property you identified in request #1, above, provide copies of any and all attachments to the sale contract(s) that were provided to Purchaser(s) (e.g., lead warning statement, statement by the seller disclosing the presence of known lead-based paint and/or lead-based paint hazards).
13. For each property you identified in request #1, above, provide copies of any EPA-approved lead hazard information pamphlet and other records or reports pertaining to lead-based paint and/or lead-based paint hazards that were provided to Purchaser(s), and indicate the date on which these documents were provided to the Purchaser(s).

IN THE MATTER OF:

Mr. Carl R. Schneider, Owner  
MLS Holdings LLC

Declaration Responding to Information Request

I, the undersigned, state as follows:

1. I have made a diligent search and inquiry for all information and documents that are requested in the Request for Information to which this declaration responds. I have not found or been told about, and have no knowledge of, any information or documents requested by the request for information that I have not identified, copied, and submitted along with this declaration. I have not destroyed any requested documents or transferred any requested documents to any other person or party in the last three years.
2. Attached to this declaration are [number of pages] pages of document photocopies. The attached pages are true, complete, and correct copies of documents that I presently have in my custody or control either personally, or as an Agent, representative, or employee of a business entity in which I had or have a financial or ownership interest.
3. The information and documents were prepared and kept, or were received and kept, in the usual course of regularly conducted business.
4. All the responses to the inquiries contained in the Request for Information are true, complete, and correct.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on \_\_\_\_\_  
Date

Signature: \_\_\_\_\_

Office or Title: \_\_\_\_\_



CONFIDENTIAL BUSINESS AND PERSONAL PRIVACY INFORMATION**I. ASSERTION REQUIREMENTS**

You may assert a business confidentiality claim covering any parts of the information requested, as provided in 40 C.F.R. § 2.203(b). However, health and safety data is not entitled to confidential treatment under 40 C.F.R. Part 2. "Health and safety data" means:

- (A) Any study of any effect of a chemical substance or mixture on health, on the environment, or on both, including the underlying data and epidemiological studies; studies of occupational exposure to a chemical substance or mixture; and toxicological, clinical, and ecological studies of a chemical substance or mixture;
- (B) Any test performed under TSCA, 15 U.S.C. § 2601 *et seq.*; and
- (C) Any data reported to, or otherwise obtained by, EPA from a study or test described in (A) or (B), above.

See 40 C.F.R. § 2.306(a)(3)(i)(A), (B), and (C).

Notwithstanding the definition above, no information shall be considered to be "health and safety data" if disclosure of the information would:

In the case of a chemical substance or mixture, disclose processes used in the manufacturing or processing the chemical substance or mixture; or

In the case of a mixture, disclose the portion of the mixture comprised by any of the chemical substances in the mixture.

See 40 C.F.R. § 2.302(a)(2)(ii)(A) and (B).

To make a confidentiality claim, submit the requested information and indicate that you are making a claim of confidentiality. Any document for which you make a claim of confidentiality should be marked by attaching a cover sheet stamped or typed with a caption or other suitable form of notice to indicate the intent to claim confidentiality. The stamped or typed caption or other suitable form of notice should employ language such as "trade secret" or "proprietary" or "company confidential" and indicate a date, if any, when the information should no longer be treated as confidential. Information covered by such a claim will be disclosed by EPA only to the extent permitted and by means of the procedures set forth at Section 14 of TSCA and 40 C.F.R. Part 2. Allegedly confidential portions of otherwise non-confidential documents should be clearly identified. EPA will construe the failure to furnish a confidentiality claim with your response to the Request for Information as a waiver of that claim, and the information may be made available to the public without further notice to you.

## II. DETERMINING WHETHER THE INFORMATION IS ENTITLED TO CONFIDENTIAL TREATMENT

All confidentiality claims are subject to EPA's verification and must be made in accordance with 40 C.F.R. § 2.208, which provides in part that you must satisfactorily show that you have taken reasonable measures to protect the confidentiality of the information and that you intend to continue to do so; that the information is not and has not been reasonably obtainable by legitimate means without your consent; and that disclosure of the information is likely to cause substantial harm to your business' competitive position.

Pursuant to 40 C.F.R. Part 2, Subpart B, EPA may at any time send you a letter asking that you support your confidential business information (CBI) claim. If you receive such a letter, you must respond within the number of days specified by EPA. Failure to submit your comments within that time would be regarded as a waiver of your confidentiality claim or claims, and EPA may release the information. EPA will ask you to specify which portions of the information you consider confidential **by page, paragraph, and sentence**. Any information not specifically identified as subject to a confidentiality claim may be disclosed to the public without further notice to you. For each item or class of information that you identify as being CBI, EPA will ask that you answer the following questions, giving as much detail as possible:

1. For what period of time do you request that the information be maintained as confidential, e.g., until a certain date, until the occurrence of a special event, or permanently? If the occurrence of a specific event will eliminate the need for confidentiality, please specify that event and the expected date of occurrence.
2. Information submitted to EPA becomes stale over time. Why should the information you claim as confidential be protected for the time period specified in your answer to question number 1?
3. What measures have you taken to protect the information claimed as confidential? Have you disclosed the information to anyone other than a governmental body or someone who is bound by an agreement not to disclose the information further? If so, why should the information be considered confidential?
4. Is the information contained in any publicly available databases, promotional publications, annual reports or articles? Is there any means by which a member of the public could obtain access to the information? Is the information of a kind that you would customarily not release to the public?
5. Has any governmental body made a determination as to confidentiality of the information? If so, please attach a copy of the determination.
6. For each category of information claimed as confidential, **explain with specificity** why release of the information is likely to cause substantial harm to your competitive position. Explain the specific nature of those harmful effects, why they should be viewed as substantial and the causal relationship between disclosure and such harmful effects. How could your competitors make use of this information to your detriment?

7. Do you assert that the information is submitted on a voluntary or a mandatory basis? Please explain the reason for your assertion. If you assert that the information is voluntarily submitted information, explain whether and why disclosure of the information would tend to lessen the availability to EPA of similar information in the future.
8. Is there any other information you deem relevant to EPA's determination regarding your claim of business confidentiality?

If you receive a request for a substantiation letter from the EPA, **you bear the burden of substantiating your confidentiality claim.** Conclusory allegations will be given little or no weight in the determination. In substantiating your CBI claim(s), you must bracket all text so claimed and mark it "CBI." Information so designated will be disclosed by EPA only to the extent allowed by and by means of the procedures set forth in 40 C.F.R. Part 2, Subpart B. If you fail to claim the information as confidential, it may be made available to the public without further notice to you.